

WEIL, GOTSHAL & MANGES LLP

1501 K STREET, NW
SUITE 100
WASHINGTON, DC 20005
(202) 682-7000
FAX: (202) 857-0939

AUSTIN
BOSTON
BRUSSELS
BUDAPEST
DALLAS
FRANKFURT
HOUSTON
LONDON
MIAMI
MUNICH
NEW YORK
PARIS
PRAGUE
SILICON VALLEY
SINGAPORE
WARSAW

BRUCE H. TURNBULL
DIRECT LINE (202) 682-7070
E-MAIL: bruce.turnbull@weil.com

July 19, 2004

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: **Ex parte presentation, Docket MB 04-62**

Dear Ms. Dortch:

Representatives of the 4C Entity, LLC ("4C") met, on July 16, 2004, with Johanna Shelton of Commissioner Adelstein's office. The 4C representatives at this meeting were: Cheryl Brunner of IBM, Jeffrey Lawrence of Intel, and the undersigned as outside counsel to Matsushita/Panasonic and the 4C Entity, LLC.

The discussion consisted of the summary points made in the attached document.

Sincerely,



Bruce H. Turnbull

cc: Johanna Shelton

Content Protection for Recordable Media for Video
Summary Points for Discussions, June 30, 2004
4C Entity, LLC
Federal Communications Commission MB Docket 04-62

Overview

- 4C Entity, LLC has proposed that the FCC approve its Content Protection for Recordable Media for Video (“CPRM for Video”) technology as a secure recording technology for Unscreened and Marked Content under the “broadcast flag” rules
 - 4C technologies utilize a common set of tools,
 - These include the encryption cipher (C2), the Media Key Block approach to key management, and revocation/renewal approaches
 - The other technologies are Content Protection for Prerecorded Media, Content Protection for Recordable Media for Audio, use of C2 for encryption and/or decryption
 - 4C has issued public technical specifications (including for all cryptographic functions, excluding only specific cryptographic values such as keys), licenses, and compliance and robustness rules (submitted to the FCC in this proceeding and generally available at www.4centity.com)
 - CPRM for Video is available for use with various forms of consumer recordable, removable media, including DVD-R, DVD-RW, DVD-RAM, SD card, Secure CompactFlash, and Microdrive and is available to be “ported” to other forms of recordable media
-
- CPRM for Video has been approved as an authorized secure recording technology by the Digital Transmission License Administrator, LLC (“DTLA” or “5C”)
 - 4C Founders are IBM, Intel, Matsushita/Panasonic, and Toshiba

Technology Strength

- C2 encryption cipher was developed by a team of cryptographic experts from the 4C Founders
- C2 is, and has been for more than 3 years, publicly available and, accordingly, subject to public scrutiny for that period
- Key length is 56 bits, the longest that could be widely exported at the time of CPRM for Video’s first deployment

- Technology “binds” the content to the recording media, effectively precluding copies or transfers to be made except in accordance with control information (such as the broadcast flag, which permits additional copies so long as they are protected)
- Authentication is required, both implicitly (i.e., only devices with appropriate algorithms, keys, and related technology may play back content recorded using CPRM) and explicitly in the context of playback using computer-based systems (using a challenge-based authentication system)
- Renewability is provided through revocation of individual device keys (pursuant to a transparent, fair process); certain implementations are also capable of being upgraded through regular key changes appropriate to the particular implementations

Approval and Adoption of CPRM for Video

- Content owners have expressed support for CPRM for Video in various contexts, including in this proceeding and in the “change management” process by which DTLA approved CPRM for Video as an authorized secure recording technology
- Over 125 product manufacturers have licensed 4C Technologies, including CPRM for Video
- Many products are currently on the market implementing CPRM for Video (including DVD recorders and SD video recorders)

Licenses are reasonable and non-discriminatory

- A standard “adopter agreement” is used for licensing, with its terms and conditions having been publicly available for over 3 years on the 4C website and having been submitted as part of 4C’s certification submission to the FCC
- The license is designed to be “market-enabling,” recognizing that content protection is not a “feature” for which consumers will pay extra but is a feature that is useful in order to encourage content owners to make their content available
- Fees are set on a cost recovery basis, both as to license administration (through set annual fees) and technology development and maintenance (through unit fees); although periodic inflation-based increases in annual fees are called for by the license, 4C cancelled the first such increases in the spring of 2004

- All “necessary claims” of patents held by Founders are licensed for use in implementing the 4C Technology, ensuring that licensees have all patent claims that they need and avoiding any concerns about whether non-necessary claims are being licensed
 - Licensees grant reciprocal non-assertion promises vis a vis 4C, the Founders, and other licensees, but these non-asserts –
 - are limited to “necessary claims”
 - are limited to implementation of the 4C Technology within the scope of use of the adopter agreement
 - do not limit use of the claims subject to the non-asserts in any application outside of the 4C Technology implementation pursuant to the 4C license
 - Changes to specifications and compliance rules are strictly limited under terms spelled out in the license documents
 - As indicated, over 125 product manufacturers have signed the 4C license agreement, with only minimal questions about the terms and conditions and with only one company objecting to its provisions (either to 4C or in the FCC proceeding)
 - 4C’s licenses are fully consistent with the development of a thriving competitive environment for content protection technologies, as well as other product features and functions
-